

STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

DOCKET	
11-CAI-02	
DATE	<u>Sept 14 2011</u>
RECD.	<u>Sept 14 2011</u>

In the Matter of Complaint Against)
ORMAT NEVADA, INC. brought by) Docket No. 11-CAI-02
California Unions for Reliable Energy)
_____)

**RESPONDENT'S OPPOSITION TO REQUEST BY CURE
FOR COMMITTEE ORDER DIRECTING PRODUCTION
OF CONFIDENTIAL INFORMATION AND
EXTENSION OF SCHEDULE**

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September 14, 2011

Attorneys for ORMAT Nevada, Inc.

As set forth in the August 29, 2011 Motion to Dismiss filed by Respondent ORMAT Nevada, Inc. (“Ormat”), the California Unions for Reliable Energy (“CURE”) has failed to file a valid complaint against Ormat. In an attempt to remedy the deficiencies in its complaint, CURE has embarked on a last minute fishing expedition for information, issuing data requests to Ormat that are not authorized by the California Energy Commission’s (“Commission”) regulations, and demanding confidential information from Ormat that CURE does not have a right to receive.

On September 8, 2011, over two months after it filed a Verified Complaint and Request for Investigation regarding the North Brawley Geothermal Development Project (“North Brawley”) and East Brawley Geothermal Development Project (“East Brawley”), CURE submitted its first set of data requests to Ormat. On September 9, 2011, CURE filed and served three additional documents. First, CURE sent a letter (“CURE Letter”) to Commissioner Karen Douglas and Chairman Robert Weisenmiller requesting that the Committee “direct all parties in this proceeding to docket and serve all documents on all parties and to extend the schedule for this proceeding.”¹ Second, shortly after this letter was filed, CURE submitted a Petition for Inspection and Copying of Records Provided By ORMAT Nevada, Inc. (“CURE Petition”), requesting review of confidential information provided by Ormat to Commission Staff in response to a request for information and engineering questionnaire (“CEC Questionnaire”), and offering to enter into a non-disclosure agreement with Ormat for review of the information.² The final set of documents submitted by CURE on September 9, 2011 was a second set of data requests to Ormat.

¹ Letter from Tanya A. Gulessarian to Commissioner Douglas and Chairman Weisenmiller, Regarding Complaint Against Ormat Nevada, Inc. Docket # 11-CAI-02 (September 9, 2011).

² California Unions for Reliable Energy Petition for Inspection and Copying of Records Provided by ORMAT Nevada, Inc., 11-CAI-02 (September 9, 2011).

Ormat has three primary objections to the numerous filings by CURE. First, Ormat objects to CURE's attempt to issue data requests in this proceeding. Second, Ormat objects to CURE's assertions that Ormat was required to file and serve on CURE confidential information provided voluntarily to Commission Staff. Third, Ormat objects to CURE's request to extend the schedule in this proceeding to allow CURE to attempt to remedy its lack of diligence and its failure to make a prima facie showing in support of its Complaint. As set forth in further detail below, Ormat respectfully requests that the Committee (1) deny CURE's request for an order directing Ormat to produce confidential information to CURE and (2) deny CURE's request for an extended schedule.

1. The Commission's regulations do not require Ormat to respond to the data requests submitted by CURE.

Ormat objects to CURE's submission of two sets of data requests to Ormat, as the Commission's regulations do not provide for the issuance of data requests in a complaint and investigation proceeding. Notwithstanding this objection, in the interest of moving this proceeding forward, Ormat is willing to work with CURE to provide responses, to the extent feasible, to the data requests issued by CURE. These responses will be provided to CURE and other parties by September 16, 2011.

2. Ormat was not required to file and serve its response to the CEC Questionnaire on CURE.

CURE is incorrect in its assertion that Ormat was required to file and serve its response to the CEC Questionnaire.³ As noted in the August 15, 2011 letters from the Commission Staff to Ormat, Ormat was requested only to "complete the attached engineering questionnaire and return

³ California Unions for Reliable Energy Petition for Inspection and Copying of Records Provided by Ormat Nevada, Inc. p. 5, 11-CAI-02 (Sept. 9, 2011); Letter from Tanya Gulesserian to Commissioner Douglas and Chairmain Weisenmiller, Regarding Complaint Against Ormat Nevada, Inc. Docket # 11-CAI-02 (Dated Sept. 9, 2011).

it” to the Commission’s Siting Office.⁴ Ormat was not required to provide the information, and did so voluntarily. Furthermore, CURE has cited no Commission rule or regulation that required Ormat to file and serve its response to the CEC Questionnaire on any parties in this proceeding. Therefore, CURE’s assertions in its Petition and Letter that Ormat has “failed to serve” documents on CURE is incorrect, as Ormat was not required to do so.

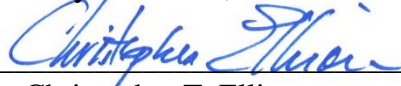
3. Extending the schedule is unnecessary.

Extension of the schedule in this proceeding is unnecessary, as the current schedule provides ample time for the review of exhibits submitted by parties. CURE’s request for a delay is simply evidence of CURE’s lack of diligence and inability to prove its allegations.

Furthermore, Ormat and CURE have entered into a nondisclosure agreement. Ormat has agreed to provide CURE copies of confidential Exhibits 203 and 204, which contain confidential information submitted by Ormat in response to the CEC Questionnaire. CURE will receive and be able to review these materials well in advance of the evidentiary hearing. Thus, an order from the Committee directing production of confidential materials or extending the schedule in this proceeding is unnecessary. Ormat respectfully requests that the Commission deny CURE’s request and Petition for Inspection.

September 14, 2011

Respectfully submitted,

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⁴ Letter from Terrence O’ Brien to Charlene Wardlow, Regarding North Brawley Geothermal Project Generating Capacity (Dated Aug. 15, 2011); Letter from Terrence O’ Brien to Charlene Wardlow, Regarding East Brawley Geothermal Project Generating Capacity (Dated Aug. 15, 2011).

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CALIFORNIA UNIONS FOR RELIABLE)	
ENERGY)	
_____)	

PROOF OF SERVICE

I, Karen A. Mitchell, declare that on September 14, 2011, I served the attached
*Respondent's Opposition To Request By CURE For Committee Order Directing Production Of
Confidential Information And Extension Of Schedule* via electronic and U.S. mail to all parties
on the attached service list.

I declare under the penalty of perjury that the foregoing is true and correct.



Karen A. Mitchell

SERVICE LIST
11-CAI-02

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